

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

CHARLES A. DAVIS and
VERA DAVIS

PLAINTIFFS

vs.

Civil Action No. 3:05-cv-329 WS

COUNTRYWIDE HOME LOANS, INC.
(WMC MORTGAGE, INC.)

DEFENDANTS

ORDER GRANTING SUMMARY JUDGMENT

Before this court is the motion of the defendant Countrywide Home Loans, Inc., for summary judgment. Brought pursuant to Rule 56(a)¹ of the Federal Rules of Civil Procedure, defendant's motion asks this court to declare an easement by implication reflected by the applicable land records. The plaintiffs have not responded; instead, they requested an extension of time until January 3, 2006, to file a response. When that time had passed, and plaintiffs still had not responded to Countrywide's motion, this court directed the plaintiffs to file their response no later than April 28, 2006, noting that failure to respond as directed might result in the granting of defendants' motion for summary judgment. This deadline also passed, but the plaintiffs then requested until May 8, 2006 to respond. This date also has passed and the plaintiffs have offered no response to the motion for summary judgment as directed.

¹Rule 56(a) provides that "[a] party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory judgment may, at any time after the expiration of 20 days from the commencement of the action or after service of a motion for summary judgment by the adverse party, move with or without supporting affidavits for a summary judgment in the party's favor upon all or any part thereof."

This court, acting pursuant to its inherent power to govern its docket and expeditiously dispose of pending cases, may grant summary judgment in favor of the moving party when the plaintiff(s) has not responded to the motion, particularly when the plaintiff is represented by counsel, has been granted time to respond, and still fails to respond in accordance with the court's directive. *See Link v. Wabash Railroad Company*, 370 U.S. 626, 82 S.Ct. 1386, 8 L.Ed.2d 734 (1962); *McNeal v. Papasan*, 842 F.2d 787, 789-90 (5th Cir. 1988); *see also Hallal v. Hopkins*, 947 F.Supp. 978, 983 (S.D. Miss.1995).

Therefore, pursuant to its inherent power, this court hereby grants the summary judgment filed by the defendant in this cause which seeks to declare an easement by implication over the plaintiffs' property and to have this court's ruling reflected in the appropriate land records.

SO ORDERED, this the 17th day of July, 2006.

s/ HENRY T. WINGATE

CHIEF UNITED STATES DISTRICT JUDGE

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